




POLICE DEPARTMENT

-----X
In the Matter of the Disciplinary Proceedings :
- against - : FINAL
Police Officer Eric Matos : ORDER
Tax Registry No. 956068 : OF
Military and Extended Leave Desk : DISMISSAL
-----X

Police Officer Eric Matos, Tax Registry No. 956068, having been served with written notice, has been tried on written Charges and Specifications numbered 2019-20906, as set forth on forms P.D. 468-121, dated August 19, 2019 (last amended on January 28, 2020), and after a review of the entire record, Respondent is found Guilty of the charged misconduct.

Now therefore, pursuant to the powers vested in me by Section 14-115 of the Administrative Code of the City of New York, I hereby DISMISS Police Officer Eric Matos from the Police Service of the City of New York.


DERMOT F. SHEA
POLICE COMMISSIONER

EFFECTIVE: 4/23/2021

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POLICE DEPARTMENT

April 6, 2021

-----X
In the Matter of the Charges and Specifications :

Case No.

- against - :

2019-20906

Police Officer Eric Matos :

Tax Registry No. 956068 :

Military and Extended Leave Desk :

-----X
At: Police Headquarters
One Police Plaza
New York, NY 10038

Before: Honorable Paul M. Gamble
Assistant Deputy Commissioner Trials

APPEARANCES:

For the Department: Ayisha Amjad, Esq.
Department Advocate's Office
One Police Plaza
New York, NY 10038

For the Respondent: William T. Martin, Esq.
William T. Martin & Associates
108 Village Square, Suite 143
Somers, NY 10589

To:

HONORABLE DERMOT F. SHEA
POLICE COMMISSIONER
ONE POLICE PLAZA
NEW YORK, NY 10038

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CHARGES AND SPECIFICATIONS

1. Said Police Officer Eric Matos, assigned to 28th Precinct Hub Site, on or about June 29, 2018, in the Borough of Staten Island, County of Richmond, City and State of New York, falsely swore, and such false statement consisted of testimony that was material to the action, proceeding, and matter in which it was made.

P.G. 203-08, Page 1, Note

PUBLIC CONTACT – PROHIBITED
CONDUCT
GENERAL REGULATIONS
P.L. 210.15, P.L. 210.05

2. Said Police Officer Eric Matos, assigned to 28th Precinct Hub Site, on or about April 27, 2018, up to and including in or about June 29, 2018, in the Borough of Staten Island, County of Richmond, City and State of New York, on eight separate occasions, knowing that he did not have the authority of anyone entitled to grant it, and with the intent to defraud, tampered with a public record constituting a record of a public office, namely by making a false entry therein.

P.G. 203-08, Page 1, Note

PUBLIC CONTACT – PROHIBITED
CONDUCT
GENERAL REGULATIONS
P.L. 175.25

3. Said Police Officer Eric Matos, assigned to 28th Precinct Hub Site, on or about April 27, 2018, up to and including in or about June 29, 2018, in the Borough of Staten Island, County of Richmond, City and State of New York, being a public servant authorized by law to make or issue official written instruments, and with the intent to injure, he issued such an instrument, on eight separate occasions, knowing that it contained false information.

P.G. 203-08, Page 1, Note

PUBLIC CONTACT – PROHIBITED
CONDUCT
GENERAL REGULATIONS
P.L. 175.40

4. Said Police Officer Eric Matos, assigned to 28th Precinct Hub Site, on or about April 27, 2018, up to and including in or about June 29, 2018, in the Borough of Staten Island, County of Richmond, City and State of New York, with intent to defraud, on eight separate occasions, caused a false entry to be made in business records, of an enterprise, namely, the New York City Police Department.

P.G. 203-08, Page 1, Note

PUBLIC CONTACT – PROHIBITED
CONDUCT
GENERAL REGULATIONS
P.L. 175.05

5. Said Police Officer Eric Matos, assigned to 28th Precinct Hub Site, on or about April 27, 2018, up to and including in or about June 29, 2018, in the Borough of Staten Island, County of Richmond, City and State of New York, being a public servant authorized by law to make or issue official written instruments, and with the intent to injure, he issued

such instruments, knowing that they contained false information on eight separate occasions.

P.G. 203-08, Page 1, Note

PUBLIC CONTACT PROHIBITED
CONDUCT
GENERAL REGULATIONS
P.L. 175.40

6. Said Police Officer Eric Matos, assigned to 28th Precinct Hub Site, on or about April 27, 2018, up to and including in or about April 28, 2018, in the Borough of Staten Island, County of Richmond, City and State of New York, did wrongfully make computer inquiries on a Department computer unrelated to the official business of the Department.

P.G. 219-14, Page 1, Paragraph 2 DEPARTMENT COMPUTER SYSTEMS

7. Said Police Officer Eric Matos, while assigned to the 28th Precinct Hub Site, on or about November 1, 2019, during an official Department interview conducted pursuant to the provisions of Patrol Guide Section 203-08, wrongfully made false, inaccurate, or misleading statements. (*As Added*)

P.G. 203-08, Page 1, Paragraph 1 MAKING FALSE STATEMENTS
GENERAL REGULATIONS

REPORT AND RECOMMENDATION

The above-named member of the Department appeared before me on March 12, 2021.

Respondent, through counsel, entered a plea of Not Guilty to the subject charges. The Department called Detective Edward Young II and Elianna Duncan as its witnesses. Respondent appeared at the hearing with his counsel, but did not participate in the hearing: he made no arguments, did not examine any witnesses, presented no evidence and refused an order to testify. Respondent's counsel lodged a standing objection to the admission of every exhibit offered in evidence by the Department¹. A stenographic transcript of the trial record has been prepared and

¹ Counsel for Respondent asserted that a Federal court order stayed these proceedings until the resolution of his application for injunctive relief could be heard in United States District Court, Southern District of New York (Stein, J.) on March 31, 2021. The date for this trial was set at a conference on January 14, 2021. Counsel submitted an email containing a calendar entry from the Electronic Case Filing (ECF) system, which summarized the order of the District Court that defendant, City of New York, showed cause on the date of the hearing as to why relief should not be granted (Court Exhibit 1). The relief Counsel for Respondent sought, as described in the calendar entry, was to enjoin this Department from proceeding with disciplinary hearings until Respondent's criminal case in Richmond County was resolved. While the Tribunal requested a copy of the order, which Counsel for Respondent argued was a stay of these proceedings, and afforded him two additional business days to do so after the adjournment of the trial for deliberation, no such order was provided. I, therefore, reserved decision on this matter on March 16, 2021.

is available for the Police Commissioner's review. Having reviewed all of the evidence in this matter, I find Respondent Guilty of all charges and recommend that he be DISMISSED from the Department.

ANALYSIS

The following is a summary of the relevant testimony at trial.

Detective Edward Young II testified that he is an investigator with Internal Affairs Bureau Group 26. In September 2019, he was assigned to an investigation into eight summonses issued by Respondent to two individuals, Person A and Elianna Duncan (T. 23-24, 26).

I. Person A

According to Detective Young's investigation, Respondent issued six summonses which purportedly cited Person A on April 27, 2018, at 1407 hours, in front of Person A and Person A Avenues in Staten Island (T. 26, 33-34; Dept. Exs. 1A-1F). These six summonses charged Person A with: (1) red light (VTL 1111D1); (2) unlicensed operator (VTL 509); (3) failure to present (VTL 412A3); (4) failure to present insurance (VTL 319); (5) failure to comply with police (VTL 1102); and (6) improper plate (VTL 415) (T. 31-33; Dept. Exs. 1A-1F). The address listed for Person A on the summonses was Person A (Id.). An examination of Respondent's Daily Activity Log for April 27, 2018, at 1407 hours, revealed an entry pertaining to "Person A OH UC 433179, 1999 Honda Black" and the issuance of six summonses (T. 50-51; Dept. Ex. 7). Detective Young conferred with the Ohio Department of Motor Vehicles and learned that "UC 433179" was not

assigned to any Ohio license plate and did not conform with the formatting that agency uses for license plates² (T. 34).

An examination of Automatic Vehicle Locator data for all police vehicles in operation within the 120th Precinct on April 27, 2018, at approximately 1407 hours, revealed that: (1) no police vehicles were located at [REDACTED]; and (2) the police vehicle Respondent was assigned to that day was located at 405 Richmond Terrace and Jersey Street, Staten Island, NY in Sector F, 120th Precinct (T. 34-35, 37-38; Dept. Ex. 2).

According to Detective Young's investigation, Person A was recuperating at home with a broken leg at the time he was alleged to have committed the aforementioned violations of the Vehicle and Traffic Law in Staten Island (T. 41, 46; Dept. Exs. 4-5). Evidence of text messages sent from Person A's mobile phone, [REDACTED] reveal that he was communicating with Person B his former girlfriend and Respondent's current girlfriend, as early as 0841 hours on April 27, 2018 (T. 45-46; Dept. Ex. 5). Detective Young learned that the same day, Person B filed a complaint report, 2018-122-[REDACTED] alleging that Person A making harassing telephone calls and sending harassing text messages (Dept. Exs. 5, 12B at 25). Detective Young also obtained location data for Person A mobile telephone and learned that it had been located in Queens for the entire day (T. 43-45).

An audit of the NYPDFINEST database revealed that Respondent conducted four searches for Person A from a tablet: on April 27, 2018, at 09:56:49 hours, 10:40:28 hours, and 10:43:45 hours; and April 30, 2018, at 11:29:24 hours (T. 47-49; Dept. Ex. 6). The audit

² The number "[REDACTED]" was apparently associated with an Ohio licensed driver named [REDACTED] who was cited on summons B [REDACTED] on January 2, 2018 (Dept. Ex. 12B at 42-43). It is unclear whether Respondent issued that summons to [REDACTED] or how it was that [REDACTED]'s license number came to be entered on the summonses issued to Person A.

also revealed that Respondent conducted a search for [Person A] name from a desktop computer on April 28, 2018, at 09:42:12 hours. The audit also revealed that Respondent conducted two searches from a tablet, at 14:01:03 hours and 14:02:07 hours on April 27, 2018, for "Plate # [redacted] the supposed license plate number he entered onto [Person A] summonses (Dept. Ex. 6). The audit further revealed that Respondent conducted two searches for [Person B] [redacted] from a desktop computer on April 28, 2018, at 14:31:44 and 14:31:57 (*Id.*).

2. *Elianna Duncan*

On May 24, 2018, Elianna Duncan was stopped by Respondent at the intersection of [redacted], New York, at approximately 1220 hours, and issued two summonses for disobeying a traffic device (VTL 1110A) and improper seat belt (VTL 1229C1B) (T. 52-53, 57; Dept. Exs. 9A-9B). Respondent's Body Worn Camera captured the car stop, his drafting two summonses and handing them to Duncan (T. 59, 61; Dept. Ex. 8).

An examination of Respondent's Daily Activity Log for May 24, 2018, at 1220 hours revealed an entry pertaining to "Duncan, Elleanna F, [redacted] 16 Jeep red" and the issuance of four summonses for VTL violations (T. 62-63; Dept. Ex. 10).

On June 29, 2018, Duncan appeared in Traffic Court and disputed the validity of four summonses she asserted were wrongfully issued to her by Respondent (Dept. Exs. 11A-11B). Respondent was placed under oath at the proceeding and asserted that he had issued Duncan four summonses (T. 63, 66-67, 72; Dept. Ex. 11B at 3-4). Duncan was also placed under oath and contradicted Respondent's testimony, asserting that he had only given her two summonses at the scene and handed the hearing officer carbon copies of those two summonses (Dept. Ex. 11B at 5-7). The hearing officer found Duncan guilty of the summonses for disobeying a traffic device and child restraint; she dismissed the other two summonses as duplicative (*Id.* at 11).

3. November 1, 2019, Department Interview

On November 1, 2019, Respondent, represented by counsel, was questioned by Detective Young and Lieutenant Wong of Internal Affairs Group 26, pursuant to the provisions of Patrol Guide procedures 206-13 and 203-08 (T. 67-70; Dept. Exs. 12A-12B). During this interview, Respondent denied the accusations of misconduct; he also provided inaccurate and misleading responses, as set forth in detail in the analysis of Specification 7.

Elianna Duncan testified that on May 24, 2018, she was driving on Westervelt Avenue, toward Brook Street, in Richmond County (T. 80). As she approached Brook Street, she was almost "T-boned" by another car (*Id.*). Duncan honked her horn at the car, and then proceeded again toward [REDACTED] (*Id.*). Upon arriving at [REDACTED], she came to a stop at a stop sign, and then made a left turn (*Id.*).

As Duncan prepared to drive into a gas station, she saw flashing lights, which she interpreted as a signal to pull over; when the vehicle drew closer to her, she realized that the vehicle was the same one that had almost collided with her and that a police officer was its operator (T. 80-81). When Respondent stepped out of his vehicle and approached Duncan's window, she confronted him, stating that he almost hit her (T. 81). Respondent then advised Duncan that she was being recorded (*Id.*). Duncan asked Respondent why he had stopped her, and Respondent informed her that she was being stopped for failure to stop at a stop sign and going over a double yellow line (*Id.*).

Duncan gave Respondent her license and registration, which he took back to his vehicle (*Id.*). After a short time, Respondent returned to Duncan's vehicle and handed her two summonses (T. 82). According to Duncan, she told Respondent that she could not believe that

he gave her two tickets for something that she did not do (*Id.*). Duncan drove off and continued with her plans for the day (*Id.*).

Approximately 14 days later, Duncan went online to address the summonses with either guilty or not guilty pleas and discovered that she had been issued an additional two summonses by Respondent (T. 82-83). She contested the four summonses and appeared in traffic court (T. 83).

I find Detective Young to be a credible witness. As the investigator assigned to the case, his testimony consisted largely of summarizing the evidence he collected during the course of his investigation.

I further find Elianna Duncan to be a credible witness, as her trial testimony appeared to be consistent with her earlier testimony before the Traffic Adjudication Bureau, as well as the recording of the traffic stop on May 24, 2018.

I note that the Department's burden of proof in this proceeding is a preponderance of the credible evidence. Specifications 1, 2, 3, 4 and 5 involve allegations that Respondent committed specified violations of the New York Penal Law. In that regard, "[f]or purposes of making an administrative disciplinary determination, it is immaterial whether the charges would be proven beyond a reasonable doubt in a criminal court" (*Disciplinary Case No. 2018-19274* [August 19, 2019], citing *Police Dep't v Baksh*, OATH Index No. 1471/97 [Oct. 2, 1997]; see also *Dep't of Correction v. Blanc*, OATH Index No. 2571/11 [Feb. 2, 2012] ["in a disciplinary proceeding, it is sufficient if the specifications are established by a fair preponderance of the evidence"]).

Specification 1: Perjury/False Swearing

I find that the Department has met its burden by a preponderance of the credible, relevant evidence that Respondent on or about June 29, 2018, swore to the veracity of a material false statement he made in a traffic adjudication.

A person commits the crime of Perjury in the First Degree when he swears falsely and his false statement consists of testimony which is material to the action, proceeding or matter in which it is made (Penal Law § 210.15). Perjury in the First Degree is a class “D” felony (*Id.*).

A person commits the crime of Perjury in the Third Degree when he swears falsely (Penal Law § 210.05). Perjury in the Third Degree is a class “A” misdemeanor (*Id.*).

Respondent appeared in traffic court in Richmond County on June 29, 2018, and took an oath prior to offering testimony (T. 63; Dept. Ex. 11B at 3). In his testimony, he asserted falsely that he issued Elianna Duncan four summonses on May 24, 2018, during a traffic stop (T. 63, Dept. Ex. 11B at 4). Duncan denied that Respondent had issued her four summonses, asserting that he had only issued two summonses on the scene (Dept. Ex. 11B at 6-8).

I find that Respondent’s assertion that he issued Duncan four summonses on the scene was material to the proceeding, in that the number of summonses issued to her was a contested issue. I further find that Respondent knew the falsity of his assertion at the time he made it because it was contradicted by the body camera footage, which showed him writing two summonses and handing those two summonses to Duncan (T. 63; Dept. Ex. 8).

I find by a preponderance of the credible evidence that Respondent committed the class “D” felony of Perjury in the First Degree. In the alternative, those same facts would have

established the commission of the lesser-included offense of False Swearing, a class “A” misdemeanor; accordingly, I find Respondent Guilty of Specification 1.

Specification 2: Tampering With Public Records

I find that the Department has met its burden by a preponderance of the credible, relevant evidence that Respondent, from on or about and between April 27, 2018, and June 29, 2018, tampered with a public record by making false entries therein on eight separate occasions: on six summonses issued to Person A and two summonses issued to Elianna Duncan.

A person commits the crime of Tampering with Public Records in the First Degree when, knowing that he does not have the authority of anyone entitled to grant it, and with intent to defraud, he knowingly removes, mutilates, destroys, conceals, makes a false entry in or falsely alters any record or other written instrument filed with, deposited in, or otherwise constituting a record of a public office or public servant (Penal Law § 175.25). Tampering with Public Records in the First Degree is a class “D” felony (*Id.*).

“Written instrument” means any instrument or article, including computer data or a computer program, containing written or printed matter or the equivalent thereof, used for the purpose of reciting, embodying, conveying or recording information, or constituting a symbol or evidence of value, right, privilege or identification, which is capable of being used to the advantage or disadvantage of some person (Penal Law § 175.00[3]).

The credible evidence in the record establishes that on or about April 27, 2018, Respondent issued six summonses to Person A which were entirely fictitious: (1) at the time Respondent falsely claimed to have conducted a car stop in Richmond County, Person A was in Queens recovering from a motorcycle injury, in which he sustained a broken leg; (2) at the time Respondent falsely claimed he was stopping Person A at Jewett and Forrest Avenues,

Respondent's vehicle was actually located in front of [REDACTED], 3.2 miles away; (3) Respondent's false assertion on the summonses that the vehicle he stopped was registered in Ohio was refuted by officials at the Ohio Department of Motor Vehicles, who asserted that no such registration existed; and (4) since there was no traffic stop, Respondent's assertions that Person A committed six traffic violations were all false.

The credible evidence also showed that on May 24, 2018, Respondent wrote two summonses to Elianna Duncan after he had conducted a traffic stop in which he filled out two summonses and handed them to her. When Duncan checked a website for information on contesting the two summonses she had actually received during the traffic stop, she learned that four summonses, all issued by Respondent, were associated with her name. The four summonses were filed with the Traffic Adjudication Bureau, an official public agency, as evidenced by Respondent and Duncan's appearances in traffic court on June 29, 2018.

I find by a preponderance of the credible, relevant evidence that Respondent committed the class "D" felony of Tampering with Public Records; accordingly, I find him Guilty of Specification 2.

Specifications 3 & 5: Issuing a False Certificate

I find that the Department has met its burden by a preponderance of the credible, relevant evidence that Respondent, from on or about and between April 27, 2018, and June 29, 2018, issued official written instruments containing false entries on eight separate occasions: on six summonses issued to Person A and two summonses issued to Elianna Duncan.

A person commits the crime of Issuing a False Certificate when, being a public servant authorized by law to make or issue official certificates or other official written instruments, and with intent to defraud, deceive or injure another person, he issues such an instrument, or makes

the same with intent that it be issued, knowing that it contains a false statement or false information (Penal Law § 175.40). Issuing a False Certificate is a class “E” felony (*Id.*).

“Public servant” means (a) any public officer or employee of the state or of any political subdivision thereof or of any governmental instrumentality within the state, or (b) any person exercising the functions of any such public officer or employee (Penal Law § 10.00[15]).

I further find that at all relevant time, Respondent was a public servant authorized to issue the summonses, which qualify as official written instruments. I further find that he issued those summonses with the intent to defraud, as he then and there knew that each summons contained false information and intended for public officials to rely upon them as if they were valid.

I find by a preponderance of the credible, relevant evidence that Respondent committed the class “E” felony of Issuing a False Certificate; accordingly, I find him Guilty of Specifications 3 and 5³.

Specification 4: Falsifying Business Records

I find that the Department has met its burden by a preponderance of the credible, relevant evidence that Respondent, from on or about and between April 27, 2018, and June 29, 2018, caused false entries to be made in the business records of the New York City Police Department on eight separate occasions: with respect to six summonses issued to Person A and two summonses issued to Elianna Duncan.

A person commits the crime of Falsifying Business Records in the Second Degree when, with intent to defraud, he makes or causes a false entry in the business records of an enterprise

³ These specifications appear to be duplicative.

(Penal Law § 175.05[1]). Falsifying Business Records in the Second Degree is a class “A” misdemeanor (Penal Law § 175.05).

“Business record” means any writing or article, including computer data or a computer program, kept or maintained by an enterprise for the purpose of evidencing or reflecting its condition or activity (Penal Law § 175.00[2]).

“Enterprise” mean any entity of one or more persons, corporate or otherwise, public or private, engaged in business, commercial, professional, industrial, eleemosynary, social, political or governmental activity (Penal Law § 175.00[1]).

The evidence shows that Respondent made two Daily Activity Log entries, on April 27, 2018, and May 24, 2018, which contained false entries. The April 27, 2018, entries were false in that they purported to document a fictitious stop of Person A and six fictitious traffic infractions. The May 24, 2018, entries were false in that they purported to document the issuance of four summonses to Elianna Duncan, when Respondent actually issued only two summonses to her during the traffic stop.

I find that Respondent’s Daily Activity Log was, and is, a business record of the enterprise known as the New York City Police Department.

I find by a preponderance of the credible evidence that Respondent committed the class “A” misdemeanor of Falsifying Business Records in the Second Degree; accordingly, I find him Guilty of Specification 4.

Specification 6: Computer Entries Unrelated to Department Business

I find that the Department has met its burden by a preponderance of the credible, relevant evidence that Respondent, on or about and between April 27, 2018, and April 30, 2018, made computer inquiries on a Department computer that were unrelated to the official business of the Department.

Patrol Guide procedure 219-14(2) requires Members of Service, when utilizing Department computer systems in a command and/or a Department vehicle to make only official inquiries, which relate to the official business of the Department (P.G. 219-14[2]).

Detective Young's credible testimony established that on or about and between April 27, 2018, and April 30, 2018, Respondent made nine computer inquiries regarding Person A from a desktop computer and a tablet. The evidence establishes that, at the time Respondent made these inquiries, Person A had not committed any traffic infractions that Respondent had observed. Whatever Respondent's rationale was for making the inquiries, it did not relate to his assigned duties of traffic enforcement in the 120th Precinct; accordingly, the inquiries were unrelated to official Department business.

Based upon the foregoing, I find Respondent Guilty of Specification 6.

Specification 7: False, Inaccurate or Misleading Statements

I find that the Department has met its burden by a preponderance of the credible, relevant evidence that Respondent made inaccurate and misleading statements during his official Department interview on November 1, 2019.

Patrol Guide procedure 203-08 prohibits Members of Service from making either false, misleading or inaccurate official statements (P.G. 203-08[1], [2], [3]). I find that during his

official Department interview, Respondent engaged in a pattern of disingenuous professed inability to recollect material facts, claiming that he did not recall issuing summonses to Person A under these circumstances, summonses that bore his name; he even claimed that he did not recognize his own handwriting.

I further find that Respondent made the following inaccurate or misleading statements during the November 1, 2019, interview:

- a. When he was asked whether he had ever heard of Person A he asserted falsely that "... obviously, I pulled the man over at some point in time" (Dept. Ex. 12B at 13, ln. 9-11). The evidence demonstrates that Respondent never stopped Person A on April 27, 2018, as Person A was not in Richmond County that day. I find these assertions were material to the matter being investigated and were offered to support a false narrative, rather than being simple denials of accusations of misconduct.
- b. When he was asked whether he had heard of Person A from his girlfriend, Person B Respondent asserted falsely that he had not (Dept. Ex. 12B at 24, ln. 8-10). The evidence established that on April 27, 2018, the same day Respondent ran Person A's name in Department databases and later issued six summonses based upon a fictitious car stop, Person B filed a complaint report in which she alleged that Person A had made harassing calls to her. Investigators confronted Respondent with this evidence during his interview, and he persisted in his denial. I find it more likely than not that Respondent heard about Person A from his girlfriend, contrary to his denials, and issued him fraudulent summonses for personal reasons. His girlfriend filed a complaint report against Person A her ex-boyfriend, the same day; it is unlikely that she would do so before talking to her police officer boyfriend, especially since Respondent used Department property to look up Person A's name the same day.
- c. When he was asked whether he had written summonses for Person A when neither he nor Person A was present, he falsely asserted that he did not (Dept. Ex. 12B at 54, ln. 7-9). As discussed above, there is no evidence in the record that Respondent ever conducted a car stop of Person A or observed him committing traffic infractions on April 27, 2018, other than his self-serving statement at his interview, which was refuted by the credible relevant evidence. Respondent was confronted during the interview with: (1) the AVL evidence for his assigned police vehicle, which placed him 3.2 miles away from the location he claimed he conducted a car stop of Person A at 1407 hours (*Id.* at 38-40); (2) the evidence of his computer searches for Person A name several hours before he supposedly conducted a car stop at 1407 hours (*Id.* at 26-31); (3) the driver's license data belonging to a licensed Ohio driver which Respondent entered on the summonses, asserting that it was part of the Ohio registration Respondent claimed was on Person A's vehicle (*Id.* at 41-43); and (4) the relationship between Person A and Respondent's girlfriend (*Id.* at 22-26). Even after

being so confronted, Respondent persisted in his denial. Respondent glibly suggested that one possible reason for the discrepancy between the location of his vehicle and the location of the supposed car stop was that perhaps he swapped vehicles with another officer (*Id.* at 40, ln. 5-12).

- d. When he was asked whether he had written two additional summonses to Elianna Duncan after she departed the scene of her car stop, he falsely asserted that he did not (Dept. Ex. 12B at 53, ln. 18-22; 54, ln. 1). Since Respondent's body worn camera footage and Duncan's credible testimony prove that, he wrote two, and only two, summonses to Duncan on the scene, by inference he wrote the additional two summonses at another time. Respondent asserted that the testimony he gave at traffic court, affirming that he had written four summonses, was true.

Based upon the foregoing, I find Respondent Guilty of Specification 7.

PENALTY

In order to determine an appropriate penalty, the Tribunal, guided by the Department Disciplinary System Penalty Guidelines ("Disciplinary Guidelines"), considered all relevant facts and circumstances, including any aggravating and mitigating factors established in the record. Respondent's employment record was also examined (*see* 38 RCNY 15-07). Information from Respondent's personnel record that was considered in making this penalty recommendation is contained in an attached confidential memorandum.

The Department has recommended that Respondent be terminated from his employment. Based upon the credible evidence in the record, I concur with their recommendation.

Respondent has been found Guilty of four specifications based upon proof that he committed a felony (Specifications 1, 2, 3 and 5) and one specification that establishes that he committed a misdemeanor (Specification 4). According to the Disciplinary Guidelines, the presumptive penalty for engaging in conduct proscribed by New York State law as a felony is termination. The presumptive penalty for engaging in conduct proscribed by New York State law as a misdemeanor is 30 days; the aggravated penalty is termination. The presumptive

penalty for making a false official statement is termination. Finally, the presumptive penalty for the misuse of a Department computer is ten (10) penalty days; the aggravated penalty is 20 penalty days.

The evidence clearly established that Respondent corruptly abused his authority with respect to two citizens. He issued six summonses to [Person A] a man who was not even in his borough on April 27, 2018, and accused him of offenses that he did not commit.

Respondent also issued two additional summonses to Elianna Duncan after he had already issued her two summonses during a car stop on May 24, 2018. He compounded his corruption when he took the oath in traffic court on June 29, 2018, and falsely testified that he had issued her four summonses during the car stop. The arrogance he displayed by perjuring himself in Duncan's presence, before a hearing officer, no doubt expecting that his word would be accepted over that of a civilian, is astonishing.

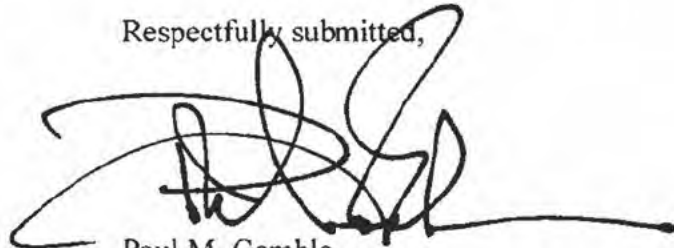
Respondent then displayed contempt for his obligation to provide candid responses during an official Department interview by dissembling, obfuscating and stonewalling in response to questions. He doubled down on his false narrative regarding [Person A] after being confronted with incontrovertible evidence, which would have led any reasonable Member of Service to conclude that their version of events was unsupported by fact, leading them to correct their statement. He disingenuously "refused to speculate" how his body worn camera could capture the entire interaction between himself and Elianna Duncan, including his drafting of two summonses, and somehow not capture his drafting of two additional summonses he claimed were issued at the same time.

I have found no evidence of mitigation in this record. I further find the presence of the following aggravating factors:

- a. The nature of the events was such that it allowed time for deliberate reflection or action;
- b. Respondent's apparent motivation, with respect to **Person A** was of a personal interest;
- c. Respondent's lack of candor;
- d. The adverse impact of Respondent's conduct on the Department with regard to its mission, reputation, credibility and relationship with the community, and the impact upon public trust; and
- e. Respondent's overall pattern of behavior, indicating an inability to adhere to Department rules and regulations.

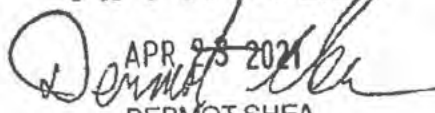
Accordingly, I recommend that, pursuant to Section 14-115 of the Administrative Code of the City of New York, Respondent be DISMISSED from the Department.

Respectfully submitted,

A large, stylized handwritten signature in black ink, likely belonging to Paul M. Gamble, written over the typed name.

Paul M. Gamble
Assistant Deputy Commissioner Trials

APPROVED

A handwritten signature in black ink, likely belonging to Dermot Shea, written over the typed name and date.

APR 23 2021
DERMOT SHEA
POLICE COMMISSIONER



POLICE DEPARTMENT CITY OF NEW YORK

From: Assistant Deputy Commissioner – Trials

To: Police Commissioner

Subject: CONFIDENTIAL MEMORANDUM
POLICE OFFICER ERIC MATOS
TAX REGISTRY NO. 956068
DISCIPLINARY CASE NO. 2019-20906

Respondent was appointed to the Department on January 8, 2014. On his three most recent performance evaluations, he received a 4.0 overall rating of “Highly Competent” for 2016, and received 3.0 ratings of “Competent” in 2014 and 2015.

Respondent has no disciplinary record. In connection with the instant matter, Respondent was suspended in September 2019 and remains suspended to date. He was also placed on Level II Discipline Monitoring on September 10, 2019; that monitoring remains ongoing.

For your consideration.

Paul M. Gamble
Assistant Deputy Commissioner Trials